unsealed 6/5/08

ORDERED SEALED BY COURT

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08 JUN -4 AM 10:28

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 1753

UNITED STATES OF AMERICA, Plaintiff, v. MARIO BEJAR, aka Scorpion, Defendant.	Magistrate Case No. ______ COMPLAINT FOR VIOLATION OF: Title 18, United States Code, Sections 922(g)(1) and 924 - Felon in Possession of a Firearm

The undersigned complainant being duly sworn states:

On or about May 2, 2007, within the Southern District of California, defendant MARIO BEJAR, aka Scorpion, being a person who had previously been convicted in a court, that is, the Superior Court of California, County of San Diego, of crimes punishable by imprisonment for a term exceeding one year, that is, on or about September 9, 1987, attempted robbery, in violation of California Penal Code, Sections 664 and 211, and on or about October 18, 1989, robbery, in violation of California Penal Code, Section 211, did knowingly and unlawfully possess in and affecting commerce a firearm, that is, one Mauser 98K 8 mm rifle; all in violation of Title 18, United States Code, Sections 922(g)(1) and 924.

And the complainant states that this complaint is based on the attached statement of facts, incorporated herein by reference.

Signature of Complainant

Sworn to before me and subscribed in my presence this 4th day of June, 2008.

SEALED by Order of
Magistrate Judge Leo S. Papas
Date JUN 4 2008

Leo S. Papas
US Magistrate Judge

HON. LEO S. PAPAS
UNITED STATES MAGISTRATE JUDGE

SEALING REQUEST: Because this is an ongoing investigation and premature disclosure of the investigation and this affidavit could endanger agents and officers, cause suspects to flee, and cause the destruction of evidence, I request that this affidavit, all arrest warrants, the complaint, and all other associated court records be sealed until further court order.

Asiano B. Davila

Asiano B. Davila, Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN to before me ~~on June~~ 4, 2008.

HON. LEO S. PAPAS
UNITED STATES MAGISTRATE JUDGE

AFFIDAVIT

ASIANO B. DAVILA, being duly sworn, states:

The following is based on my own investigation, oral and written reports by other law enforcement officers, physical and electronic surveillance, and interviews. Since this affidavit is for a limited purpose, I have not included every fact I know about this investigation. I set forth only facts necessary to establish foundation for the complaint. Conversations below are set forth in substance unless noted, and most call descriptions are based on summaries prepared by monitors, not final transcripts. My interpretations of certain statements are set forth in brackets. Dates and times are approximate.

This Complaint arises out of the possession of a firearm by a felon, defendant Mario "Scorpion" Bejar, who is a member of the Old Town National City street gang. Bejar sold the firearm to a Federal Bureau of Investigation ("FBI") confidential informant. The transaction, which took place in the informant's apartment in San Diego, was audio and video recorded by law enforcement.

On May 2, 2007, Bejar and another male went to the informant's apartment so that Bejar could sell the informant a rifle. Bejar and the other male were surveilled entering the informant's apartment. Bejar thereafter sold the rifle, which was German-made Mauser 98K 8 mm rifle, to the informant for $100. During the deal, Bejar took the rifle from the informant and worked its bolt-action. Bejar also commented as to how the informant should clean the weapon for use. Bejar further commented about the utility of the rifle compared to other types of firearms. In particular, Bejar told the informant that, if the informant needed to fire multiple rounds quickly, the rifle was not the best choice for that job, especially if the informant was being shot at by others. Bejar stated that the rifle was a "sniper" weapon.

Bejar has felony convictions in San Diego County for attempted robbery in violation of California Penal Code Sections 664 and 211 on or about September 9, 1987, and robbery in violation of California Penal Code Section 211 on or about October 18, 1989.

SEALED by Order of
Magistrate Judge Leo S. Papas
Date JUN 4 2008

Leo S. Papas
US Magistrate Judge